

5. The only statutory objections to permit applications available to surface owners are set out at § 45.1-361.35. (B)
Objections to permits; hearing.

2. Measures in addition to the requirement for a well's water-protection string are necessary to protect fresh water-bearing strata;

6. Relief: The Petitioner's requested relief in this cause is hereby *denied*:

a. The Board found that the Petitioners had failed to present sufficient evidence to prove their case.

b. The Board found that the Petitioner had been appropriately provided notice and the opportunity to appear and appeal to the permit application for this permit application 29775.

c. The Board found that the Petitioner was a surface owner. Petitioner did not present any evidence to refute the opinion.

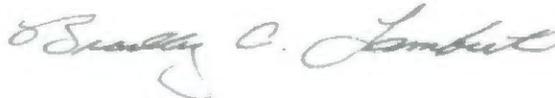
d. The Board found that Jesse E. Neece has leased his property to Enervest Operating, LLC;, to allow the construction, drilling, completion and producing of wells on their property(s).

7. Conclusion: The decision of the Director of the Division of Gas and Oil dated August 23, 2017 in IFFH 1002, and attached hereto is hereby affirmed, and the appeal of Jesse E. Neece is denied. The Director of the Division of Gas and Oil is directed to issue the well permit for Application #29775 Coalbed Methane Gas Well with Pipeline and IT IS SO ORDERED.

8. Appeals: Appeals of this Order may be filed by an adversely affected parties within thirty days after service of the Order, pursuant to the provisions of Va. Code Ann. § 45.1-361.9 that provides that any order or decision of the Board may be appealed to the appropriate circuit court where interlocutory relief may also be sought. Any appeal shall be filed in compliance with the provisions of the Administrative Process Act (Va. Code Ann. §§ 2.2-4000 et seq.) and the Rules of the Supreme Court of Virginia.

9. Effective Date: This Order shall be effective as of the date of the Board's decision on October 17, 2017.

DONE AND EXECUTED this 30 day of October, 2017 by a majority of the Virginia Gas and Oil Board.



Chairman, Bradley C. Lambert

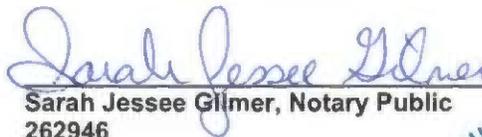
DONE AND PERFORMED this 30 day of October, 2017 by Order of the Virginia Gas and Oil Board.



Rick Cooper
Principal Executive to the
staff, Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA
COUNTY OF RUSSELL

Acknowledged on this 30th day of October, 2017, personally before me a notary public in and for the Commonwealth of Virginia, appeared Bradley C. Lambert, being duly sworn did depose and say that he is the Chairman of the Virginia Gas and Oil Board and appeared Rick Cooper, being duly sworn did depose and say that he is Principal Executive to the staff of the Virginia Gas and Oil Board, that they executed the same and was authorized to do so.


Sarah Jessee Gilmer, Notary Public
262946

My Commission expires: July 31, 2021



Virginia Division of Gas and Oil

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Rick Cooper, Director
Division of Gas and Oil



By Decision of the Director in

Informal Fact Finding Conference 1002

Jesse E. Neece

vs.

EnerVest Operating, LLC

Permit Application for Gas and Oil operations:

Coalbed/Pipeline Operations VCI-530487 w/PL, Application 29775

Background

Coalbed/Pipeline operations VCI-530487 w/PL, Application 29775, EnerVest Operating, LLC was received at the Virginia Division of Gas and Oil (DGO) on 6/29/2017. The evidence regarding the application and objections filed support the fact that the objections were timely and appropriate under Virginia statute.

The objections filed by Jesse E. Neece against the permit application #29775 were in accordance with objections provided by law under §45.1-361.35.

§45.1-361.35. Objections to permits; hearing

B. The only objections to permits or permit modifications that may be raised by Surface Owners are:

2. There are not measures (in addition to the requirement for a well's water-protection string) necessary to protect fresh water-bearing strata.

C. The only objections to permits or permit modifications that may be raised by Royalty Owners are whether the proposed well work:

1. The proposed operation(s) would directly impinge upon the royalty owner's gas and oil interest.

Hearing Date and Place

IFFH 1002 was convened on Tuesday, August 15, 2017 at 10:00 AM, at the Department of Mines, Minerals, and Energy Office, Russell County Government Center, 135 Highland Drive, Lebanon, Virginia 24266. All parties with standing to object to Permit Application #29775 were notified of the time and place by United States Postal Service, certified mail, return receipt requested.

I. TESTIMONY BY THE SURFACE OWNER

- * Jesse E. Neece stated that the hand dug well on their property was the only source of water.
- * Mr. Neece stated the hand dug well was approximately 15-20 feet deep.
- * Mr. Neece was concerned that the stream beneath the proposed site would be damaged by the installation of the well.
- * Mr. Neece was concerned that his adjacent 10-acre mineral tract would be affected by the proposed well.
- * Mr. Neece stated that the lease agreement with Enervest was not valid.
- * Mrs. Linda Neece was also concerned that the water well on their property would be damaged.
- * Mrs. Neece stated the public water was approximately 1 ½ miles from the old home place and probably would never have public water installed.
- * Mr. Neece stated that the surveyors entered his property without notifying him of their presence.

II. TESTIMONY BY THE APPLICANTS

- * Mr. Tim Scott stated that the 10-acre mineral tract that was discussed was not part of the proposed unit and was more than 750 feet from the proposed well.
- * Mr. Scott stated that Enervest had a right of way agreement for the proposed well.
- * Mr. Charles Akers stated that the law and regulation would require the operator to replace the water if damaged by the proposed well.
- * Mr. Akers stated Enervest would be running water protection casing and production casing and both would be cemented to surface. These casings would protect the ground water.

Decision of the Director: In the matter before IFFH 1002.

The operator's application states that adequate sediment controls will be installed around the construction location to protect the stream. The stream below the proposed site is approximately 80 feet lower than the proposed gas well site. The Director is satisfied that the erosion and sediment control plans in the proposed application meet best practice standards for the construction activities for this site under current laws and regulations.

The permit application show that a minimum of 300 feet of ground water steel casing and 2,162 feet of steel production casing will be installed in the gas well. Both steel casings will be cemented to surface. Both casing installations are planned to protect ground water sources. The Director does not see any deficiency in the permit application that would materially affect the ground water.

The Virginia Gas and Oil Regulations 4 VAC 25-150-340, requires the operator to conduct an analysis of groundwater within 1,320 feet of the drilling location prior to drilling. The Exhibit 1 shows that the hand dug well is more than 1,320 feet from the proposed gas well. According to Exhibit 2 the complainant's residence is at a surface elevation of 2,240 feet and the surface elevation of the proposed well is 1833 feet. The complainant's hand dug water well is approximately 400 feet above the proposed gas well. Therefore, the proposed gas well and construction is significantly lower than the complainant's house and water well. The Director does not see that the proposed gas well affect the recharge area of the hand dug water well. The Director does not see any construction conditions that will materially affect the Neece's residence. The Director does not see any just cause to deny the application on these grounds.

The permit applicant apparently has rights to use the surface owner's property to access their mineral estate. If this is in dispute, it must be contested in a court of proper jurisdiction. While it can be argued that any adverse use of the property is an infringement, § 45.1-361.35 only allows consideration of unreasonable infringement. Interpretation and adjudication of leases and other contractual agreements is not within the purview of the Division of Gas and Oil or the Virginia Gas and Oil Board. The issue must be handled by a proper court.

Based on testimony and the permit application, it is, therefore, the decision of the Director to deny the surface owner's objections to permit application 29775 for Coalbed Methane Gas Operation VCI-530487 W/Pipeline. The permit application for operation VCI-530487 W/Pipeline will be assessed and issued under standard Division of Gas and Oil permit procedures.

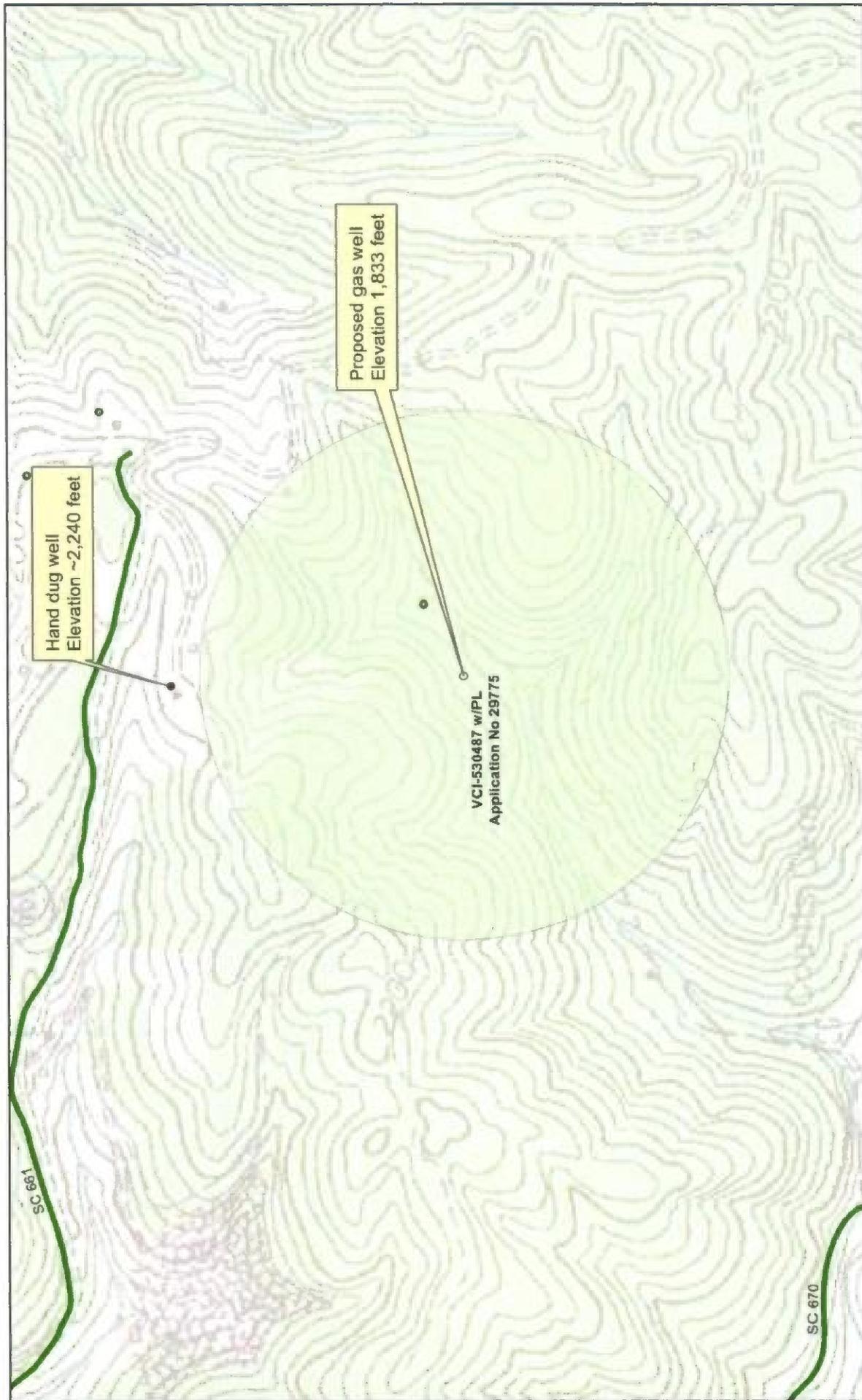
Based on testimony and the permit application, it is, therefore, the decision of the Director to deny objections to permit Application 29775 for operations VCI-530487 w/PL. The Permit Application for operations VCI-530487 w/PL will be assessed and issued under standard Division of Gas and Oil permit procedures.

Right of Appeal

Any person with standing under §45.1-361.30 who is aggrieved by this decision of the Director may appeal the decision to the Virginia Gas and Oil Board by filing a petition with the Board within ten days following the decision (§45.1-361.36). No petition or appeal may raise any matter other than matters raised by the Director or which the petitioner put in issue either by application or by objections, proposals, or claims made and specified in writing at the informal fact finding conference.

Signed Wednesday, August 23, 2017

Rick Cooper, Director
Virginia Division of Gas and Oil



Legend

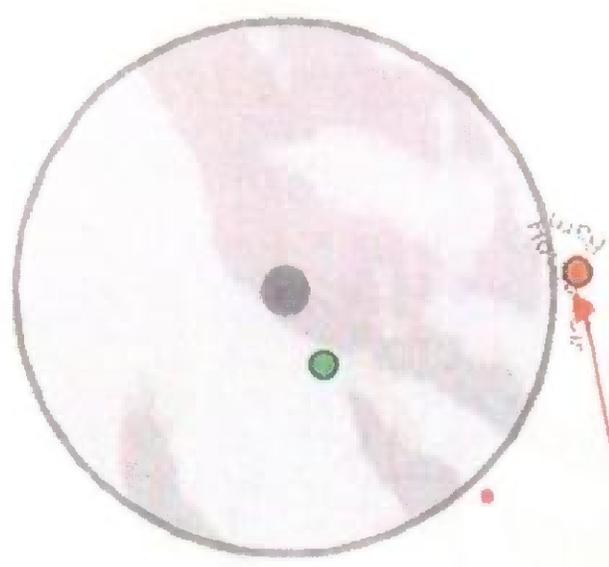
- Active Groundwater Monitoring Point
- Inactive Groundwater Monitoring Point

The DMME Well Location Map is intended to provide DMME users a visual representation of gas/oil wells collected from a wide variety of sources. These data sets are made up of data with varying degrees of accuracy, data precision, update frequency, and were developed at various scales. Therefore, data displayed should not be construed as having survey accuracy or engineering design quality. Data sets displayed in this map are known to have errors. End users are encouraged to report data errors and discrepancies.

Save D1

Garfield
Private Dr

Sample D1



High Creek

Tarzan Ln

Josef Branch

DGoGeo.DBO.DgoInactiveGroundwate
0010890

Northing: 3,587,006.64
 Easting: 10,379,758.28

MPID: 0010890

Location Name: JESSE NEECE - WELL
 (NOT YET SAMPLED)

Comments: 3096.171, EMI # 50377,
 JESSE NEECE, HAND DUG WELL (OWNER
 TO CALL TO SCHEDULE SAMPLING
 EVENT, NOT CALLED AS OF JULY 10,
 2017.) [7/10/2017, david porter]

[View Analysis](#)

< [Zoom to](#)

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